

DISTRICT OF NEW JERSEY
PRESENTENCE REPORT

NAME (Last, First, Middle) GAMBINO, ROSARIO			aka: "Saro"; "Sarino"; "Saruzzo"; and "Shorty"		DICTATION DATE November 20, 1984 SCHEDULED SENT. DATE December 3, 1984 DOCKET NO. 84-00098-001 CITIZENSHIP Permanent resident EDUCATION Fourth grade SOC. SEC. NO.
ADDRESS Metropolitan Correction Center New York, New York			LEGAL RESIDENCE [REDACTED]		
AGE 42	RACE White	DATE OF BIRTH [REDACTED]	PLACE OF BIRTH Palermo, Italy	SEX Male	
MARITAL STATUS Married			DEPENDENTS Wife and four children		
FBI NO. 224 487 E			U.S. MARSHAL NO. 06235-050		OTHER IDENTIFYING NO. N.J. SID# 840910 A
OFFENSE					

See Offense Section

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PURPOSES IN ACCORDANCE WITH
PUBLIC LAW 94-233 ONLY.
INMATE NOT TO RETAIN COPY.

PENALTY

See Offense Section

CUSTODIAL STATUS	DATE OF ARREST
In custody in lieu of \$900,000 surety	April 16, 1984
PLEA	

VERDICT

10-23-84, found guilty by jury to counts 2, 11, 12, 13, 17 & 18

DETAINERS OR CHARGES PENDING

District of New Jersey, Cr. #83-364, Conspiracy to Defraud U.S. Department of Treasury and False Statements - pending trial.

OTHER DEFENDANTS

See Offense Section

USPC/Gambino-00037

ASSISTANT U.S. ATTORNEY Maryanne Murphy 201-645-2357	DEFENSE COUNSEL Jacob R. Evseroff (retained) 186 Joralepin Street Brooklyn, N.Y. (212-875-0903)
DISPOSITION CAG 15 yrs., SPT 10 yrs. on Cts. 11 & 12 (merged), stand comm. fine of \$25,000; CAG 15 yrs. & SPT 10 yrs. on Cts. 17 & 18 (merged), stand comm. fine of \$25,000 to be served consecutive to sent. imposed on Cts. 11 & 12, CAG 15 yrs. on Ct. 2; Stand comm. fine of \$25,000, to be served consecutively w/sentences imposed on merged Ct. 7 & 18 & merged Cts. 11 & 12. CAG 4 yrs. on Ct. 13, stand comm. fine \$30,000 to be served concurrently only as to sentences imposed on Ct. 2, merged Cts. 17 & 18 & Cts. 11 & 12. TOTAL SENT: CAG 45 yrs. SPT 20 yrs. Stand Committed fine of \$105,000	
Frederick B. Lacey, Judge, Newark, N.J.	PROBATION OFFICER Michael G. C. 12-06-84

EXHIBIT

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STATUS OF DEFENDANTS

<u>NAME</u>	<u>COUNTS NAMED IN</u>	<u>PLEA/CONVICTION STATUS</u>	<u>DISPOSITION</u>
Rosario GAMBINO 84-00098-001	1 through 4, 11 through 13, 17, 18.	10-23-84: Found guilty of Counts 2, 11, 12, 13, 17, 18.	
Erasmus GAMBINO 84-00098-002	2 through 5, 7, 11, 12, 15, 17, 18.	10-23-84: Found guilty of Counts 2, 3, 4, 5, 7, 11, 12.	
Giovanni BOSCO 84-00098-003	2 through 4, 11, 12, 14, 16 through 18.	Fugitive.	
Anthony SPATOLA 84-00098-004	2 through 4, 7, 8, 10 through 18.	10-23-84: Found guilty of Counts 2, 7, 8, 10, 11, 12, 13, 14, 16, 17, 18.	
Antonio GAMBINO 84-00098-005	2 through 6, 8 through 12, 17, 18.	10-23-84: Found guilty of Counts 2, 3, 4, 5, 8, 10, 11, 12, 17, 18.	
Mario GAMBINO 84-00098-006	2 through 4, 6, 9, 11, 12, 17, 18.	10-23-84: Acquitted on all Counts.	

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OFFENSE:

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Indictment. Count 1 charges that between October 1, 1983 and March 16, 1984, Rosario Gambino knowingly and intentionally engaged in a continuing criminal enterprise, in that he committed a violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A), 843(b) and (c) and 846, which violations were part of a continuing series of felony violations of Subchapters I and II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, undertaken by Rosario Gambino in concert with at least five others, with respect to whom he occupied a position of organizer, supervisor, and manager, and from which continuing series of violations Rosario Gambino obtained substantial income and resources in violation of Title 21, U. S. C., Section 848.

Penalty. Inapplicable. Gambino was acquitted.

Count 2 charges that between October 1, 1983 and March 16, 1984, at Atlantic City and elsewhere, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally conspired to distribute heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A). X

Penalty. 15 years imprisonment and/or \$25,000 fine.

Count 3 charges that on December 27, 1983, at Marmora, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally possessed with intent to distribute a quantity of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2.

Penalty. 15 years imprisonment and/or \$25,000 fine plus Special Parole Term of at least 3 years.

Count 4 charges that on December 27, 1983, at Marmora, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally distributed a quantity of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2.

Penalty. 15 years imprisonment and/or \$25,000 fine plus Special Parole Term of at least 3 years.

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~~FOI EXEMPT~~

Count 5 charges that on January 2, 1984, at Villas, Erasmo Gambino and Antonio Gambino knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or \$30,000 fine.

Count 6 charges that on January 3, 1984, at Villas, Antonio Gambino and Mario Gambino knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or \$30,000 fine.

Count 7 charges that on January 17, 1984, at Cape May, Erasmo Gambino and Anthony Spatola knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or \$30,000 fine.

Count 8 charges that on January 17, 1984, at Cape May, Anthony Spatola and Antonio Gambino knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or \$30,000 fine.

Count 9 charges that on January 17, 1984, at Villas, Antonio Gambino and Mario Gambino knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or \$30,000 fine.

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Count 10 charges that on January 18, 1984, at Cape May, Anthony Spatola and Antonio Gambino knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or \$30,000 fine.

Count 11 charges that on January 18, 1984, at Atlantic City and elsewhere, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally possessed with intent to distribute approximately 1/2 kilogram of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2. 1/2

Penalty. 15 years imprisonment and/or \$25,000 fine plus Special Parole Term of at least 3 years.

Count 12 charges that on January 18, 1984, at Atlantic City, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally distributed approximately 1/2 kilogram of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2. 1/2

Penalty. 15 years imprisonment and/or \$25,000 fine plus Special Parole Term of at least 3 years.

Count 13 charges that on January 30, 1984, at Cape May, Rosario Gambino and Anthony Spatola knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2. heroin

Penalty. 4 years imprisonment and/or \$30,000 fine.

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Count 14 charges that on January 30, 1984, at Cape May, Giovanni Bosco and Anthony Spatola knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

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Penalty. 4 years imprisonment and/or \$30,000 fine.

Count 15 charges that on February 17, 1984, at Cape May, Erasmo Gambino and Anthony Spatola knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or \$30,000 fine.

Count 16 charges that on February 17, 1984, at Cape May, Giovanni Bosco and Anthony Spatola knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or \$30,000 fine.

Count 17 charges that on February 20, 1984, at Somers Point, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally possessed with intent to distribute approximately 1/2 kilogram of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2. 1/2

Penalty. 15 years imprisonment and/or \$25,000 fine plus Special Parole Term of at least 3 years.

Count 18 charges that on February 20, 1984, at Somers Point, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally distributed approximately 1/2 kilogram of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2. 1/2

Penalty. 15 years imprisonment and/or \$25,000 fine plus Special Parole Term of at least 3 years.

USPC/Gambino-00042

Prepared by: Donald T. Inamorato

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GOVERNMENT'S VERSION OF THE OFFENSE

This case originated in October of 1983, with the introduction of an undercover agent of the Federal Bureau of Investigation, Special Agent Michael J. Glass, to ANTONIO GAMBINO by a person known as "Hank." Prior to this meeting, Hank had made a number of ounce purchases of high level quality cocaine from ANTONIO GAMBINO, a native of Sicily residing in Cape May, New Jersey. During the course of those negotiations as indeed in the first meeting between ANTONIO GAMBINO and Special Agent Glass, ANTONIO GAMBINO stated that he had access to high quality heroin.

Beginning with this first meeting, ANTONIO GAMBINO consistently spoke of the dangers involved in heroin trafficking and in doing business with the persons who could and did provide him with heroin. He stressed the importance of exercising extreme caution and of doing everything perfectly. A mistake, such as introducing an undercover agent to conspirators, even if made innocently, would result in death. Although apparently not well versed in the details of heroin trafficking, ANTONIO GAMBINO continuously made it clear that the persons who would supply him were deeply entrenched in the heroin network, assuring Special Agent Glass that because of the people he was getting it from, the quality of the heroin

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would be the best. He also stated that his people would not consider any proposed deals of less than one kilogram of heroin. On another occasion, ANTONIO GAMBINO explained to Special Agent Glass that persons involved in heroin trafficking held his people in great respect and all wanted to buy heroin from them. Repeatedly, he referred to the persons supplying him with heroin as members of his family.

Throughout his conversations with Special Agent Glass, ANTONIO GAMBINO was obviously deeply committed to pursuing additional and larger heroin transactions with Special Agent Glass. On many occasions when a turn in events proved unsatisfactory to Special Agent Glass or to his superior, ANTONIO GAMBINO would encourage Special Agent Glass not to abandon the heroin deals by reminding him of the great deal of money to be made. Yet, once the heroin deals were under way, ANTONIO GAMBINO spoke openly to Special Agent Glass about the relatively small amount of money he was earning from the heroin sales. ANTONIO GAMBINO explained to Special Agent Glass the apparent inconsistency between his expressed desire to make a lot of money and continued desire to be involved in more heroin deals despite his small profits. He stated that he was involved in the heroin deals not for the immediate profits but for the future he hoped to secure through his involvement in the heroin deals. When viewed in the context of all his comments about the people from whom he would obtain the heroin,

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ANTONIO GAMBINO's explanation to Special Agent Glass about his motivation suggests that he believed that if his handling of the heroin deals proved satisfactory to the persons providing the heroin, the heroin deals could pave the way toward his acceptance within a criminal organization of which his suppliers were members.

Therefore, although ANTONIO GAMBINO and, later, ANTHONY SPATOLA, did not specifically identify the persons from whom they would receive heroin, they did provide Special Agent Glass with valuable information as to the identity of these persons. To summarize, these persons were dangerous, deeply entrenched in the heroin trafficking network and had a family relationship with ANTONIO GAMBINO and ANTHONY SPATOLA. In addition, the comments by ANTONIO GAMBINO as to his aspirations imply that the persons providing the heroin belonged to a structured criminal organization.

Early in the investigation, it became apparent that the supply of heroin was maintained in Brooklyn and that the Caffè Milano in Brooklyn was a recognized meeting place used by co-conspirators to discuss their transactions. When an agreement was finally reached between Special Agent Glass and ANTONIO GAMBINO that Special Agent Glass would purchase one kilogram of heroin for \$235,000, ANTONIO GAMBINO indicated that he would obtain a sample of the heroin while in Brooklyn for the Christmas holiday. Upon his return, ANTONIO GAMBINO

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delivered the sample of heroin to Special Agent Glass on December 27, 1983. It was understood that Special Agent Glass would deliver this sample to his people in Las Vegas who would then decide, based upon the quality of the sample, if they wanted to purchase the kilogram of heroin. After providing the sample, ANTONIO GAMBINO called on a daily basis to ask if Special Agent Glass had received an answer from his people.

On Friday, December 30, 1983, Special Agent Glass called ANTONIO GAMBINO at Figaro's Pizzeria No. 2, his place of employment, and told him that the sample was good, although not as good as Gambino had promised. Special Agent Glass, who was ostensibly calling from Las Vegas, said that he would return on Tuesday and that they could plan on a sale of one kilogram of heroin the week thereafter. Immediately after this telephone call, ANTHONY SPATOLA used the Figaro's Pizzeria No. 2 telephone to make the first of six calls to reach ERASMO GAMBINO that day.

Telephone contact was finally made on the afternoon of January 2, 1984, in a conversation participated in by ERASMO GAMBINO, ANTHONY SPATOLA and ANTONIO GAMBINO. In this conversation, ANTONIO GAMBINO repeated to ERASMO GAMBINO the information he had received from Special Agent Glass on December 30, 1983 through a colloquial code which referred to the heroin deal as "getting married." The evidence at trial, including the harried efforts to reach ERASMO GAMBINO after

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Special Agent Glass' call on December 30, 1983, the substance of this conversation as well as one between Antonio Gambino and his brother Mario Gambino intercepted on January 4, 1984, demonstrated that ERASMO GAMBINO had supplied ANTONIO GAMBINO with the sample of heroin which had been provided to Special Agent Glass on December 27, 1983.

It was also apparent from the January 2, 1984 conversation among ERASMO GAMBINO, ANTHONY SPATOLA and ANTONIO GAMBINO that ERASMO GAMBINO's approval was a pre-requisite to the proposed heroin deal with Special Agent Glass. To this end, a meeting was arranged for the following evening at the Playboy Hotel Casino in Atlantic City, New Jersey. During the course of that meeting between ERASMO GAMBINO and ANTONIO SPATOLA, ERASMO GAMBINO was observed placing a telephone call which, telephone toll edits revealed, was to the Caffe Milano in Brooklyn. Following this meeting, ANTHONY SPATOLA and GIOVANNI BOSCO drove to Figaro's Pizzeria No. 2 in Villas, New Jersey, where ANTONIO GAMBINO was working. ANTHONY SPATOLA reported the results of the meeting to ANTONIO GAMBINO who subsequently related them to his brother, Mario, in a conversation intercepted that evening. As ANTONIO GAMBINO told his brother, everything was "all set;" ERASMO GAMBINO had been sent by "Sarino," ERASMO GAMBINO's brother-in-law, ROSARIO GAMBINO. In addition to approving the deal, ROSARIO GAMBINO also exercised control over who would actively participate in

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the heroin transactions. Through ERASMO GAMBINO⁷ ROSARIO ~~EXEMPT~~
GAMBINO announced that GIOVANNI BOSCO, rather than Mario
Gambino, was to be included in the deals.

The approval for the heroin deal having been obtained,
Special Agent Glass met with ANTONIO GAMBINO and ANTHONY
SPATOLA, who was introduced to him as "the Boss" from out of
state." Without prior warning, the defendants insisted that
the meeting take place in a Jacuzzi whirlpool and that Special
Agent Glass wear a bathing suit so that they could be assured
that Special Agent Glass was not wearing a recording device.
At this meeting it was agreed that Special Agent Glass would
purchase one kilogram of heroin for \$235,000 from the
defendants at one of the casino-hotels in Atlantic City during
the week of January 16, 1984. At Special Agent Glass'
suggestion it was further agreed that Special Agent Glass would
inform his people that the price was \$240,000 and that the
additional \$5,000 would be split among Special Agent Glass,
ANTONIO GAMBINO and ANTHONY SPATOLA.

On Friday, January 13, 1984 Special Agent Glass called
ANTONIO GAMBINO to tell him that he would return to Atlantic
City on Monday, January 16, 1984 with the money and everyone
necessary for the heroin deal and that the deal could be set
for Tuesday. In this conversation, ANTONIO GAMBINO introduced
Special Agent Glass to two colloquial codes, the marriage code
mentioned above and one relating to the buying of a new car,

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and instructed him to use this "new language" in telephone conversations. Immediately after this telephone conversation, ANTONIO GAMBINO called ANTHONY SPATOLA to relay this information to him, using the same marriage code he had taught to Special Agent Glass. On the same day, ANTHONY SPATOLA called ERASMO GAMBINO and advised him, again using the same marriage code, that they would be asking to "have this marriage" on Tuesday. ERASMO GAMBINO advised ANTHONY SPATOLA that he would contact him.

On Monday, January 16, 1984, Special Agent Glass called Figaro's Pizzeria No. 2 to notify ANTONIO GAMBINO that he, his people and the money were all ready for the deal on Tuesday. ANTONIO GAMBINO attempted to postpone the transaction to Thursday. When Special Agent Glass indicated that they could not wait until Thursday, ANTONIO GAMBINO immediately called ANTHONY SPATOLA. In an effort to meet Special Agent Glass's requirement that the heroin sale be completed on Tuesday, ANTONIO GAMBINO and ANTHONY SPATOLA discussed the need to reach ERASMO GAMBINO and what should be said to him when contact was made. It was learned that ERASMO GAMBINO was in Brooklyn and would not return to his home in Cherry Hill until the following evening. SPATOLA made several attempts to reach ERASMO GAMBINO at his home and at the Caffee Milano in Brooklyn. In one of these calls to the Caffee Milano, ANTHONY SPATOLA unsuccessfully asked for ERASMO (ERASMO GAMBINO), Sarino (ROSARIO GAMBINO) and Giovanni (GIOVANNI BOSCO).

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In conversations intercepted that evening ANTHONY SPATOLA, ANTONIO GAMBINO and GIOVANNI BOSCO discussed their difficulties in trying to reach ERASMO GAMBINO so that the heroin sale could be made on the following day. They also discussed the possibility of having to go over ERASMO GAMBINO'S head, to "go directly to the short guy (ROSARIO GAMBINO)." GIOVANNI BOSCO advised ANTHONY SPATOLA that "the short guy (ROSARIO GAMBINO)" would be in Brooklyn the next morning. He assured ANTHONY SPATOLA that he would get involved and see the short guy (ROSARIO GAMBINO)" and that the deal would then go through.

At 12:30 a.m. on January 17, 1984, ERASMO GAMBINO placed a collect call to ANTHONY SPATOLA in response to ANTHONY SPATOLA's repeated efforts to reach him. ANTHONY SPATOLA urgently stated that he must see ERASMO GAMBINO and early. When ERASMO GAMBINO offered to see him the next evening or the following day, ANTHONY SPATOLA interrupted him, saying "No, ERASMO,... no, no....," there followed this exchange:

E. GAMBINO: I don't have, undertand?

A. SPATOLA: No, tomorrow!

E. GAMBINO: It's not like I have it in my pocket ...

A. SPATOLA: Then everything is spoiled.

E. GAMBINO: Understand?

A. SPATOLA: Erasmo ...

E. GAMBINO: Yea

A. SPATOLA: Everything is here ...

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Thus, ANTHONY SPATOLA informed ERASMO GAMBINO that ~~everything~~ was ready for the deal and that it must take place the following day. ERASMO GAMBINO in turn advised ANTHONY SPATOLA that the heroin was not immediately available, that its availability was a "day by day" factor. In response to ANTHONY SPATOLA's urging, ERASMO GAMINO indicated he would call back in 15 to 20 minutes, presumably after attempting to secure the heroin for ANTHONY SPATOLA. When he called back, ERASMO GAMBINO used a code known to be used by the conspirators for heroin, telling ANTHONY SPATOLA, "there's no pizzaiolo for tomorrow." ANTHONY SPATOLA's response was "We're in trouble." ERASMO GAMBINO explained the uncertainties of heroin availability, saying, "A quarter for one, a quarter for another." His comments demonstrate that the sources for the heroin sold to the undercover agents had numerous purchasers so that, upon obtaining a quantity of heroin, such supply was rapidly depleted by sales as small as a quarter-kilogram, a practice which apparently displeased ERASMO GAMBINO. ERASMO GAMBINO further told ANTHONY SPATOLA that some heroin was "guaranteed" for Thursday, saying "... the person I deal with, told me 'Thursday'". Immediately after this telephone call, ANTHONY SPATOLA called ANTONIO GAMBINO to advise him that "He said for Thursday." ANTONIO GAMBINO exclaimed, "No, it cannot be. We're ruined." ANTHONY SPATOLA told ANTONIO GAMBINO to see if Special Agent Glass would agree to Thursday when they

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~~SECRET~~
~~SECRET~~

spoke the following morning. If not, ANTHONY SPATOLA said, they would "have to play [their] cards with Saruzzo (ROSARIO GAMBINO); he would go down and see Saruzzo (ROSARIO GAMBINO) in the morning.

On the following day, January 17, 1984, Special Agent Glass refused to wait until Thursday and ANTHONY SPATOLA went to Brooklyn, spending much of the day at the Caffè Milano. The evidence presented at trial, which included surveillances of ROSARIO GAMBINO's Mercedes Benz at the Caffè Milano, and contemporaneous and subsequent conversations between ANTHONY SPATOLA and ANTONIO GAMBINO describing ANTHONY SPATOLA's conversations with ROSARIO GAMBINO, conclusively demonstrated that while in Brooklyn SPATOLA met several times with ROSARIO GAMBINO; that in less than two hours, ROSARIO GAMBINO arranged to obtain a half-kilogram of heroin for ANTHONY SPATOLA as a favor and that ROSARIO GAMBINO attempted to secure the whole kilogram of heroin for them. Further, ROSARIO GAMBINO indicated that the whole kilogram would be available the next day or the day after. ROSARIO GAMBINO also increased the price of the heroin. He claimed to have obtained the heroin from someone else as a favor to ANTHONY SPATOLA, indicating to ANTHONY SPATOLA (although not persuading him) that he was making no profit on the deal. He further assured ANTHONY SPATOLA that he would take care of "them" the next week, that there would be heroin available for them at good prices with no problems.

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ANTHONY SPATOLA and GIOVANNI BOSCO finally received

the heroin at approximately 1:00 a.m. on January 18, 1984 and drove to the Caesar's Boardwalk Regency Hotel in Atlantic City, New Jersey, where SPATOLA joined ANTHONY GAMBINO and the undercover agents. ANTHONY SPATOLA and ANTHONY GAMBINO then sold approximately 460 grams, just under one-half kilogram, of heroin to the undercover agents for \$112,400. This heroin had a purity of 68.3%. When heroin is sold at the street level, a customary purchase would be approximately one-tenth of a gram of heroin having a purity of 2% and sold for \$20. Therefore, the heroin sold to the undercover agents on January 18, 1984, if cut for street level distribution, would yield over 15 kilos having a value of more than \$3 million.

The transaction and meeting among ANTHONY SPATOLA, ANTHONY GAMBINO and the undercover agents lasted approximately two hours, from 4:00 a.m. until about 6:00 a.m. During the course of this meeting ANTONIO GAMBINO repeatedly made reference to his source of supply as his family. He was very secretive about his family and his family name. However, he told the agents that after this and other deals, he might be able to disclose his last name. He stated that when the agents knew their last name, they would be proud to be dealing with them, that they would feel 100% secure in dealing with them. He boasted that his family was "really big, big" and that "we can give you all the guarantee you want." In fact, the

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Ex A
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defendants are all related to each other. For example, ROSARIO GAMBINO is the brother-in-law of ERASMO GAMBINO, the cousin of ANTHONY SPATOLA and the second cousin of ANTONIO GAMBINO. ERASMO GAMBINO is a cousin to ANTONIO GAMBINO and the godfather of his wife. ANTHONY SPATOLA and GIOVANNI BOSCO are also brothers-in-law.

During the course of this meeting, Special Agent Jack Short, who was posing as Special Agent Glass' boss in this operation, told ANTHONY SPATOLA and ANTONIO GAMBINO that he wanted to have a steady supply of heroin for a distribution network he was initiating on the west coast. He said he wanted a guarantee of a set amount of heroin for each month and asked for a guarantee of 10 kilograms per month, SPATOLA indicated that he was doubtful that they could guarantee such a large amount but told Special Agent Short that they would ask and let him know.

GIOVANNI BOSCO, ANTHONY SPATOLA and ANTONIO GAMBINO left the casino after their meeting with the undercover agents. Despite the facts that they had been up all night and that a snowstorm was threatening, they drove approximately 60 miles west, going out of their way, and going directly to ROSARIO GAMBINO's residence in Cherry Hill, New Jersey. They stayed there a short time and then drove approximately 80 miles to Cape May, New Jersey, where ANTHONY SPATOLA and ANTONIO GAMBINO resided. ERASMO GAMBINO, who resides in a house

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~~EXEMPT~~

adjacent to ROSARIO GAMBINO, was also observed making a brief visit at ROSARIO GAMBINO's house that morning. In light of the intercepted conversations between ANTONIO GAMBINO and ANTHONY SPATOLA, and the attendant circumstances, it is apparent that the purpose of the trip to ROSARIO GAMBINO's residence was to deliver the money received from the heroin transaction to ROSARIO GAMBINO, the man who had obtained the heroin for this deal.

The deal and this trip were both discussed at length in a conversation between ANTONIO GAMBINO AND ANTHONY SPATOLA intercepted on January 22, 1984. This conversation clearly demonstrates the supervisory roles of ROSARIO GAMBINO and ERASMO GAMBINO in the continuing conspiracy. ERASMO GAMBINO was to be paid \$200,000 for each kilo of heroin sold to the agents. It was apparent from the conversation that ROSARIO GAMBINO had the authority to determine who would be actively involved in the heroin negotiations and transactions and how the profits could be divided among the participants.

On January 19, 1984, the day after the heroin deal, ANTHONY SPATOLA and GIOVANNI BOSCO were observed meeting with ERASMO GAMBINO in Philadelphia in the vicinity of Pennsylvania Hospital. After their meeting, ERASMO GAMBINO was observed entering Pennsylvania Hospital, where ROSARIO GAMBINO was a patient, having admitted himself on the previous afternoon. In a conversation intercepted that evening between ANTHONY SPATOLA

and ANTONIO GAMBINO, SPATOLA indicated that there was "good word for [them]," that he had spoken to him (probably ERASMO GAMBINO) about "the ten pizzas," apparently referring to Special Agent Short's request for a guarantee of 10 kilograms of heroin per month. A meeting between Special Agent Glass and ANTONIO GAMBINO was scheduled for the following day. ANTHONY SPATOLA informed ANTONIO GAMBINO that he could tell Special Agent Glass that "3 pizzaroli" (3 kilos of heroin) were available this month for a price of \$235,000 each.

On the next day Special Agent Glass met with ANTONIO GAMBINO as planned. They discussed the heroin deal and ANTONIO GAMBINO gave \$500 as part of his share pursuant to the agreement reached by ANTONIO GAMBINO, ANTHONY SPATOLA and Special Agent Glass on January 4, 1984. In response to the offer of 3 kilos, Special Agent Glass told ANTONIO GAMBINO that he would have to check with his boss, who was interested in determining the quality of the heroin already purchased, and that he should have an answer by the following Tuesday. That evening, ANTONIO GAMBINO called ERASMO GAMBINO and advised him of this conversation with Special Agent Glass.

A meeting was planned for Tuesday, January 24, 1984, the date when Special Agent Glass would have an answer from his boss. Prior to this meeting, a telephone call was intercepted between ERASMO GAMBINO and ANTHONY SPATOLA in which ANTHONY SPATOLA discussed the meeting with ERASMO GAMBINO and ERASMO GAMBINO warned him to be cautious.

~~FOUO~~ EXEMPT

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On January 24, 1984, Special Agent Glass met with ANTONIO GAMBINO and ANTHONY SPATOLA. He reported to them that his boss was disappointed in the quality of the heroin purchased from them on January 18, 1984, as it was only 65% pure. ANTONIO GAMBINO and ANTHONY SPATOLA were dismayed by this news but nevertheless repeatedly urged Special Agent Glass to convince his boss to purchase more heroin. They explained that they now had "the guarantee" for 10 kilos of heroin per month. Apparently referring to ROSARIO GAMBINO and ERASMO GAMBINO, they said "the people at the top" now knew that Special Agent Glass and his boss were to be taken seriously. Prior to the January 18, 1984 sale, "the family" didn't know this; they thought there would only be one deal. When Special Agent Glass had refused to postpone the sale from January 18, 1984, despite ANTONIO GAMBINO's indication that the heroin was not available then, the person now giving the 10 kilo guarantee (ROSARIO GAMBINO) had had to resort to obtaining the heroin from someone else to complete the deal. Now that one deal had been completed to their satisfaction, "they" were happy; they did not want to lose the 10 kilo per month deal; and they gave a 90% guarantee. ANTHONY SPATOLA and ANTONIO GAMBINO stressed that "they" had the best quality heroin available and that Special Agent Glass should try another purchase. They also told Special Agent Glass that three kilos of heroin were now available. Special Agent Glass replied that he would have to

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~~FOUO EXEMPT~~

ask his boss if he wanted to purchase more heroin and get back to them.

Shortly after their meeting with Special Agent Glass on January 24, 1984, ANTHONY SPATOLA and ANTONIO GAMBINO called ERASMO GAMBINO, who advised them that he was leaving home (in Cherry Hill, New Jersey) for Brooklyn. ANTHONY SPATOLA indicated that he would see him there. Apparently referring to their meeting with Special Agent Glass, ANTONIO GAMBINO told ERASMO GAMBINO that it "seems to be running into a storm." ERASMO GAMBINO replied that it was a "nutty business," and that you have to expect such things. ANTONIO GAMBINO added that he would like to see ERASMO GAMBINO also but that ANTHONY SPATOLA and GIOVANNI BOSCO would see him and explain what was happening.

On the following day, Special Agent Glass called ANTONIO GAMBINO to tell him that his boss, "Jack," would buy another 1/2 kilogram of heroin to see if the quality was improved. He would know on Friday when the deal might occur. Special Agent Glass met with ANTONIO GAMBINO and ANTHONY SPATOLA on that Friday, January 27, 1984, in Marmora, New Jersey. He told them that Jack would arrive in Atlantic City on Monday and leave on Tuesday. He wished to purchase 1/2 kilo of heroin on the condition that it was of high quality. ANTONIO GAMBINO and ANTHONY SPATOLA assured Special Agent Glass that the quality would be high but stated that they could not guarantee that it would be available on Monday. During the

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course of the meeting, ANTONIO GAMBINO and ANTHONY SPATOLA spoke to each other in Sicilian. "Caffe Milano" was mentioned and ANTHONY SPATOLA placed two telephone calls for which he needed \$2 in change. Special Agent Glass also confronted ANTONIO GAMBINO and ANTHONY SPATOLA with a newspaper article from the Philadelphia Daily News which detailed a seven-month long undercover heroin investigation that had culminated in the arrests of a number of Sicilian defendants. Special Agent Glass challenged ANTONIO GAMBINO and ANTHONY SPATOLA as to whether it would be safe to continue to deal with them and whether future deals would be affected by the arrests. ANTONIO GAMBINO and ANTHONY SPATOLA indicated that there was no connection between their people and those named in the article. In conversations intercepted that day, however, ERASMO GAMBINO spoke to persons close to those arrested and offered his assistance in securing bail money and attorneys.

In a conversation later that day, ANTHONY SPATOLA spoke to GIOVANNI BOSCO about the pending negotiations. GIOVANNI BOSCO advised ANTHONY SPATOLA that he had told RG that the heroin deal with Special Agent Glass had to be completed by Monday and that he had said, "okay." He also told ANTHONY SPATOLA that it was agreed that ROSARIO GAMBINO would call either at GIOVANNI BOSCO's house or at ANTHONY SPATOLA's house.

On January 28, 1984, ANTONIO GAMBINO met with ERASMO GAMBINO and ROSARIO GAMBINO at ERASMO GAMBINO's home. He

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called ANTHONY SPATOLA from ERASMO GAMBINO's home and told him that it was "all set" but that there were some new developments; that they indicated to him there might be some trouble, that the heroin might not be available. The context of his comments in this conversation as well as the obvious impact the Philadelphia heroin arrests had on the subsequent negotiations indicate that ROSARIO GAMBINO and ERASMO GAMBINO considered those arrests to provide good cause to re-examine the negotiations and take additional precautions. Although not openly advising ANTHONY SPATOLA and ANTONIO GAMBINO of their concerns, they stalled, essentially postponing the next scheduled heroin sale indefinitely until further information was obtained which would satisfy them.

When Special Agent Glass called on Monday, January 30, 1984, the scheduled date for the next heroin sale, ANTONIO GAMBINO admitted that the deal was not set, that a third person would have to meet Special Agent Glass. He later indicated that the deal could be consummated the following day and set up a meeting with Special Agent Glass and his boss for that evening at 9:00 p.m.

Prior to that meeting, there were a series of telephone calls intercepted which cemented the identification of ROSARIO GAMBINO as "Saruzzo" and "the short one," the person plainly in control of these heroin transaction. Among the calls was one between ANTHONY SPATOLA and ROSARIO GAMBINO, in

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which ROSARIO GAMBINO informed ANTHONY SPATOLA, in code, that the deal was "iffy" for the next day, but that there would be heroin available that week, that some would arrive on Wednesday. ROSARIO GAMBINO told ANTHONY SPATOLA that he would call him if it arrived sooner. This information was quickly repeated by ANTHONY SPATOLA to ANTONIO GAMBINO and GIOVANNI BOSCO and was conveyed to the undercover agents at the 9:00 p.m. meeting. On the following day, ANTONIO GAMBINO advised Special Agent Glass that they still had no news but that the deal could definitely be completed on Thursday. Later that evening, ANTHONY SPATOLA spoke to "Saro" (ROSARIO GAMBINO) at the Caffe Milano. "Saro" once again told ANTHONY SPATOLA that it (heroin) might arrive tomorrow and that if it did, he would call SPATOLA so that he could go and pick it up.

On that Thursday, February 2, 1984, ANTONIO GAMBINO called Special Agent Glass and set up a meeting for that afternoon, at which time Special Agent Glass would have to meet a third person. Prior to this meeting, ANTHONY SPATOLA and GIOVANNI BOSCO were observed meeting with ERASMO GAMBINO at the Caffe Milano in Brooklyn. The meeting that afternoon began with a preliminary meeting between Special Agent Glass and ANTONIO GAMBINO at which ANTONIO GAMBINO explained that everyone was very cautious as a result of the heroin arrests in Philadelphia and that Jack would have to meet a third individual before there could be any more deals. The meeting

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proceeded with SPATOLA and GIOVANNI BOSCO, who was introduced to Special Agent Glass as "John." BOSCO was upset that Jack was not at the meeting and stated that there would be no heroin available until the weekend. There was a second meeting that evening attended by Special Agent Glass, Special Agent Jack Short, ANTONIO GAMBINO, ANTHONY SPATOLA and GIOVANNI BOSCO, at which ANTONIO GAMBINO indicated his annoyance that Special Agents Glass and Short were not purchasing the three kilos of heroin they had available. As the negotiations at this point were clearly hampered by the loss of confidence by ANTONIO GAMBINO's people following the Philadelphia arrests, it appears that the agents' unwillingness to purchase the three kilos of heroin that were available may have appeared questionable to them. The meeting was followed by two early morning calls in which ANTONIO GAMBINO at first indicated the 1/2 kilo was available prior to Jack's announced departure the following morning and then retreated, offering only a sample of heroin. These conversations, when viewed within the context of other intercepted conversations, appear to reflect an internal conflict among the defendants as to whether or not it was safe to proceed with further transactions with the agents. Despite this difference of opinion, it was clear that those who insisted upon exercising caution, apparently ROSARIO GAMBINO and ERASMO GAMBINO were in control.

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An additional condition was set before there could be any more sales. ANTONIO GAMBINO told Special Agent Glass that his people were still unsure, that he and ANTHONY SPATOLA would have to travel to California to learn more about "Jack" to reassure them, and added that he was "too young to die." In subsequent conversations, he continued to refer to the absolute necessity of the California trip as a result of the Philadelphia heroin arrests. Once Special Agent Glass called ANTONIO GAMBINO to tell him that he was able to set up the trip, ANTONIO GAMBINO told him, in the same conversation, that some "pizza" (heroin) might be available prior to the trip. Special Agent Glass met with ANTONIO GAMBINO on February 14, 1984, to discuss the trip. Again, ANTONIO GAMBINO emphasized the necessity of the trip. Special Agent Glass told ANTONIO GAMBINO that Jack had agreed to the trip but wanted GIOVANNI BOSCO to accompany ANTHONY SPATOLA and ANTONIO GAMBINO on the trip. ANTONIO GAMBINO told Special Agent Glass that he would have to let him know if this condition was acceptable. After this meeting, which introduced a new condition to the critical California trip, there were a number of intercepted conversations on that day which revealed concentrated efforts by ANTHONY SPATOLA to reach ROSARIO GAMBINO. Two days later, ANTONIO GAMBINO called Special Agent Glass to report that GIOVANNI BOSCO would be going along to California.

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On the following day, Friday, February 17, 1984, ERASMO GAMBINO met with ANTONIO GAMBINO and ANTHONY SPATOLA pursuant to their request. That evening, a telephone conversation was intercepted between ANTHONY SPATOLA and GIOVANNI BOSCO. BOSCO told ANTHONY SPATOLA that he had been with "the short one" (ROSARIO GAMBINO), who had contacted somebody else and that that person had said, "okay," there were two (kilos of heroin) available. Apparently as a result of Special Agent Glass' indication that the next purchase would only be for 1/2 kilo, SPATOLA asked if it could be "half" (kilo) and BOSCO replied that SPATOLA should try to get Special Agent Glass to purchase one (kilo). Within minutes of this telephone call, ANTONIO GAMBINO called Special Agent Glass and told him that there were "two fresh pizzas" (2 kilos of heroin) available immediately. That evening it was agreed that Special Agent Glass would purchase 1/2 kilo of heroin on Monday, February 20, 1984.

On Monday, ANTONIO GAMBINO insisted that the heroin deal be shifted from the Caesar's Boardwalk Regency Hotel, where he believed he was under surveillance, to another location. As a result, ANTONIO GAMBINO and ANTHONY SPATOLA met with Special Agent Glass and Special Agent Roy L. Clagg at approximately 5:45 p.m. at a motel in Somers Point, New Jersey. Despite their prior successful transaction, ANTHONY SPATOLA and ANTONIO GAMBINO demanded that the agents front 1 1/2

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the purchase price prior to the transfer of the heroin. After receiving the money, ANTHONY SPATOLA brought it to a neighboring restaurant where he met with GIOVANNI BOSCO then proceeded to the parking lot where GIOVANNI BOSCO and gave ANTHONY SPATOLA the heroin. ANTHONY SPATOLA returned to the motel where he and ANTONIO GAMBINO sold approximately 1/2 kilo of heroin of 73.8% purity to the agents for \$120,000. Again during this meeting, ANTONIO GAMBINO spoke of the need to satisfy his people that the agents were "good people" since they didn't know who they were. He spoke of their reluctance to deal under such circumstances and lack of motivation to do so since "the power is theirs."

Shortly after the heroin deal was completed, GIOVANNI BOSCO called ROSARIO GAMBINO's residence. ROSARIO GAMBINO's wife provided him with a message left for him by ROSARIO GAMBINO, indicating that ROSARIO GAMBINO would meet him in Brooklyn on the following day. GIOVANNI BOSCO then called the Caffe Milano, asked for "Sarino" and was seen at the Caffe Milano several times on the following day.

On March 16, 1984, ROSARIO GAMBINO, ERASMO GAMBINO, and ANTONIO GAMBINO were arrested. ANTHONY SPATOLA was already in federal custody on other charges. Search warrants were executed at the residences of ROSARIO GAMBINO and ERASMO GAMBINO. Two \$100 bills that had been part of the buy money used by the undercover agents to purchase the heroin on

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February 20, 1984, were found in ROSARIO GAMBINO's bedroom.

Also found in a secret compartment in his closet was over \$20,000 in cash. At the time of his trial, ROSARIO GAMBINO testified that this money had been accumulated during the last few months of his business' operation so that he could pay off the business' bills after it closed on December 31, 1983. He indicated that he had been unemployed from December 31, 1983 until his arrest on March 16, 1984, but had not used any of the \$20,000 to pay his living expenses or to pay any bills from his business. The search of his home also resulted in the seizure of confidential New York City police intelligence files relating to ROSARIO GAMBINO, including surveillance conducted at the Caffè Milano. These files were apparently illegally passed to ROSARIO GAMBINO by a detective of the New York City Police Department. The search of ERASMO GAMBINO's residence resulted in the recovery of an unregistered Smith & Wesson .38 caliber pistol and ammunition concealed in a hidden compartment of ERASMO GAMBINO's bedroom closet and a sample of heroin of 95.4% purity.

The Government's Version of the Offense was prepared by the prosecuting Assistant United States Attorney.

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GAMBINO, ROSARIO

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Defendant's Version. Upon advice of counsel, the defendant declined to make a statement as he intends to appeal his case.

PRIOR RECORD:

Age	Charge	Place	Disposition
20	7-6-62: Violation of Immig- ration Laws	New York, N.Y. (Immigration & Naturalization Service)	7-27-63, deported to Italy (unverified).
Numerous attempts were made to confirm the defendant's status with the Immigration and Naturalization Service and to obtain additional pertinent information with negative results.			
27	3-24-69: Petty Larceny, Resisting Arrest, Intoxicating Driving	New York, N.Y.	Not available at the time of this writing.
28	3-3-70: Assault & Criminal Trespass	New York, N.Y.	Not available at the time of this writing.
28	5-11-70: Extortion	New York, N.Y. (FBI)	9-24-73, dismissed.
37	7-23-79: Poss. of Dangerous Weapon, Contributing to the Delinquency of Minors	Cherry Hill, N.J.	1-4-80, dismissed by Camden County Prosecutor's Office.
38	3-18-80: Conspiracy to Import Heroin	Newark, N.J. (DEA)	Acquitted.

In this case, Rosario and his brother, Giuseppe Gambino, were arrested in their Cherry Hill Restaurant, Valentino's, for allegedly participating in an International heroin smuggling operation, after police in Milan, Italy, confiscated 41.5 kilograms (about 91 pounds) of heroin destined for the United States. The heroin had an estimated street value of about \$60,000,000.00, making it one of the largest drug busts in the United States.

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GAMBINO, ROSARIO

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As a result of the above related arrest, Rosario Gambino was subsequently convicted in Italy. According to an official Court transcript, Rosario Gambino was found guilty and sentenced in absentia in the First Section of the Civil and Criminal Court of Palermo, Italy on June 6, 1983, to a term of 20 years imprisonment and a fine of \$150 million lire for the participation in the Felony of Possession of Heroin for Export. It was also verified that the subject was represented by counsel while in absentia. According to a recent treaty with the Italian Government, Rosario Gambino is subject to extradition.

41	12-29-83:	Camden, N.J.	Pending trial on Super-
	Conspiracy to Defraud	(U.S. Marshal)	seding Indictment,
	U.S. Dept. of Treasury		Cr. #83-364.
	& False Statements		<i>acquitted</i>

In this case, the subject and his brother, Giuseppe, are allegedly charged with a scheme, whereby, they created a fictitious person to front the sale of a Cherry Hill bar in New Jersey and to receive commissions from the said sale, which were then deducted as business expenses by the defendants.

Additional Criminal History Information:

According to the New Jersey State Crime Commission report and the Pennsylvania Organized Crime Commission Report of 1980, Rosario Gambino is described as a soldier and descendant in the Organized Crime Family of the late mob boss, Carlo Gambino. He, along with his brother, Giuseppe, own and operate pizza parlors in New York, Pennsylvania and Southern New Jersey to facilitate a continuing criminal enterprise. An agent from the U.S. Treasury Department, Alcohol, Tobacco and Firearms, advised of an investigation focusing on the defendant, who allegedly used a pattern of threats, coercion, violence and arson to facilitate illegal activities in Pennsylvania and New Jersey.

PERSONAL AND FAMILY DATA:

Rosario Gambino, now age 42 and the second eldest of four children, was born on [REDACTED] in Palermo, Italy to Tomasso Gambino and Salvastrici Spatola.

According to information provided by the defendant, he was raised by hard working and affectionate parents in Italy. He claims to have only received a fourth or fifth grade education prior to his illegal entry into the United States at the age of 17. Apparently, his parents, who immigrated to the United States in 1964, became permanent residents and established a successful butcher business. The subject claims to have worked in

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GAMBINO, ROSARIO

November 20, 1984

the construction industry in New York but returned to Italy for an unexplained reason in approximately 1963. After serving in the Italian Army for the next three years, he returned to New York in August, 1966 and obtained permanent resident status. Although immigration information was not available, authorities have indicated that a conviction in the instant case would jeopardize his permanent resident status and subject him to deportation.

After returning to the United States, the defendant married Pina Romano, whom he had known as a child in Italy, in 1969 in Brooklyn, New York. Mrs. Gambino, now age 33, is not fluent in the English language and was unable to provide any confirming or enlightening information, other than that already provided by relatives. His children, Savannah, Anna, Thomas and Anthony, ages 9, 11, 13 and 14 respectively, are well-provided for and attend parochial school.

Although the defendant's memory became vague and faltered frequently when pressed for details during an interview, it is believed that the father purchased homes in Delran, N.J. in approximately 1972. Later, after the father had established a family business, Father and Son Pizza, Inc., which did business as King of Pizza in Philadelphia, Pa., he gave the family home to his daughter and returned to the New York area. The Delran home was subsequently sold and the defendant and siblings subsequently relocated to adjacent homes in Cherry Hill, N.J.

During an interview, Rosario Gambino only admitted that he worked in the pizza business until his father's death in approximately 1979 and later assisted his brother, Giuseppe, who subsequently inherited the family business. Although he denies a partnership or ownership in any business enterprise, the Pennsylvania Crime Commission Report indicates a partnership in the pizza business. Furthermore, in 1978, the defendant negotiated for a property on Walnut Street in Philadelphia and was aided by his wife who used her maiden name. The property was subsequently sub-leased to one of Rosario's employees. Furthermore, the report indicates that Giuseppe, the defendant and his older brother, formed Father and Son Pizza, Inc. which operates several pizza shops in the Philadelphia and Camden, N.J. areas. Father and Son, Inc. had pizza shops in buildings owned by the Falcone brothers of Brooklyn, N.Y. who are known to operate credit scams. When the Falcones sold their properties, the Gambinos continued operating the pizza businesses.

In approximately 1979, the defendant advised that his physical health prevented his further working and that he relied upon Giuseppe for total financial support. He related that Giuseppe pays all bills and provides him with approximately \$2,000 per month in cash for personal expenses. Despite the fact that he claims great dependency upon relatives for services and transportation, the New Jersey Department

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GAMBINO, ROSARIO

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of Motor Vehicle records reflect numerous citations issued since May, 1975 for various Motor Vehicle Violations. Currently, his driving privileges have been suspended since July 4, 1984, due to persistent violations.

Reportedly, his brothers, Giuseppe (Joe) and Giovanni (John), currently reside in Brooklyn, N.Y. His only sister, Joanna, married Erasmo Gambino (no relation), a codefendant in this case. She resides with her family directly behind the defendant's residence, located on a neighboring street. The mother, now age 65, continues to reside in the defendant's fashionable Cherry Hill home.

HEALTH:

Physical. Mr. Gambino has a medium complexion, has brown eyes and black (partially transplanted) hair, is five feet seven inches tall and weighs 145 pounds. Although he presented a good physical appearance, he complained of poor physical health, as he states he suffers from frequent headaches, dizziness, sinuses, shortness of breath, chest pain and high blood pressure.

Medical records reflect that the defendant underwent laser surgery at First Pennsylvania Hospital in Philadelphia in 1979 for removal of non-malignant growths on the throat and subsequent removals in 1981, 1983 and 1984 for recurring growths. Occasionally, this condition has caused blood spitting. He was also hospitalized at Victory Memorial Hospital in Brooklyn, N.Y. in June, 1983 for polyps of the colon, requiring annual re-examination.

Mental and Emotional. Medical records at the Metropolitan Correction Center in New York City reflect the defendant was diagnosed while in custody as suffering from "situational anxiety with delusions." His memory, coping mechanisms and verbalization has improved greatly since the completion of the trial in this case. However, during an interview with this writer, the defendant expressed a concern that unspecified people were attempting to kill him and that he felt that if he were not killed, he would die of physical problems any way. Other than a competency examination ordered by the Court on May 16, 1984, the defendant has had no known psychological/psychiatric tests or treatment.

In general, the defendant conversed in broken english with the writer and seemed to understand the nature of the interview. Although he gave the impression of wanting to be cooperative, he frequently suffered memory loss when pressed for specific details regarding personal and financial activities.

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Rosario Gambino's only physical asset is a large fashionable two-story, white stone residence, located on an 80 by 150 foot lot in a predominantly affluent residential area of Cherry Hill, N.J. The exterior appearance of the house, which was fronted by two large lighted fountains and surveyed by a video camera, gave the impression of interior spaciousness and elegance, even though the writer's access to the interior was not gained at the time of a direct visit. (Interviews with various family members were subsequently accomplished at the sister's residence for family convenience). Municipal records reflect that the lot is assessed in the amount of \$8,850 and that the home is assessed in the amount of \$85,450 for a total tax assessment of \$94,300. A conservative market value for the structure is estimated in excess of \$150,000.

The defendant denies ownership and/or partnerships in any other property or business enterprise despite the fact that the Pennsylvania Crime Commission Report states otherwise. He advised that his sole support since 1979 has been from his brother, Giuseppe, who neither confirmed nor denied the statements. Considering his proposed financial condition and income, the defendant's visible standard of living appears quite high and leaves much to speculation.

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PAROLE TALK II

HD The reason I called you in here, we've got I don't know how many people out there. I can't let everybody come in. So what I want you to do, now I'm going to let two people from USC Law School come in and I'm going to let one other person in, but that's all I'm going to let come in. So I want you to go back out there and sit with your family and your representatives right here and decide who's coming in. It's just too many people. Okay?

G No problem. Thank you.

HD Good morning. I want to introduce myself. I'm Harry Dwyer. I called Mr. Gambino in before I called the rest of you in. I did so for one specific purpose. That we had a large number of representatives present and I was not going to permit all those representatives. So I called him in, told him that I will allow law students from USC and the supervising attorney and I would allow one other person to be a representative. Otherwise I just wasn't going to allow all those people. So you've chosen one person and I'm going to get to him in a moment. Now, before we go any further, were you notified that you were going to have the hearing Mr. Rosato?

R Yes.

HD Did you get a disclosure packet?

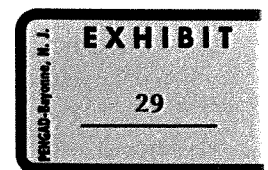
R Friday we have, yea. Friday the 7th.

HD Did you guys get -- let me see what you got. Was it from the Commission in Kansas City?

-- Yes.

HD Was it about the probation office --

-- Like two reports from New Jersey and Pennsylvania. We got



four pages from the Pennsylvania report and a page from the New Jersey report.

HD I might say I do have the two page letter from you guys dated the 12th. That the most recent one you guys sent in?

-- We have not submitted anything in writing since then.

HD They didn't send that to you guys until last Friday?

R Right

-- I got it last Wednesday.

HD So it's been less than a week. You guys had sufficient time to discuss this and you're ready to respond to it?

-- Yes.

HD You sure? Because I'll give you guys a chance to confer if you're not.

R No, no.

HD Did you read your institution file? Or did you want to?

G No.

HD You had read it before. I'm going to go around the corner and I want for you to identify yourself.

-- I'm Daniel Brown.

HD Law student from USC, supervised by --

-- Charles Weiselberg.

HD Can I have your name please?

T Yes, my name is Tommy Gambino, the son.

HD Los Angeles?

T Correct.

HD You were here before, right?

T Yes.

HD When did you get a hearing, last year?

RCC0075

T February.

HD The Commission has ordered what they call a de novo hearing. I think you guys got a copy of the notice of action with primarily the emphasis on the reasons for exceeding the guidelines for more than 48 months to determine whether or not he was a member of organized crime. Thus, him not being a very good parole risk and also being a very serious parole risk. Because that's what they use to exceed the guidelines. I did in fact read the information that was presented. I think if there's any change in the guidelines -- say if I score anything like that, I came up with an additional point. Did you guys come up with an additional point on the salient factor scope?

-- I'd rate it as a 10.

HD A 10. That's what I came up with. It was a 9 before. He was 41 or older at the time of the commencement of the current offense.

-- I believe that's right. But even a 9 or a 10 would --

HD 9, 10, 11 are all in the same category, right. The only thing I counted was one conviction, that he lost one point on. Mr. Gambino, we've talked before about your involvement in the instant offense. I know you're saying that you're not guilty of anything. Right?

G No, that's not true.

HD What are you saying you're guilty of?

G Like I said last time, after the doctor found cancer in my throat and between the medication and my desperation, I throw myself in this. I did like ... I was wrong. Because like

Spatola, Boswick, Gambino, they got in. They says the price of the drug, it was .. and the parole board believed them because the parole board didn't believe them, I don't know how they got reason.

HD Let's go back a moment. Let's go back and look at the people that got convicted, got sentenced and what happen to them. Get that out of the way.

G I'm here to say the truth today.

HD Now, what did -- you're two relatives, actually three relatives, what did they get?

G One is my relative, Spatola.

HD Spatola, what did he get?

G He went home a couple of years ago.

HD How much time did he get?

G 34 years.

HD He got 34 years. Released how long ago? Two years ago?

G Little less than 2 years ago. At least a year.

HD One year ago. Who else got time?

G Boswick went home a couple years ago.

HD What did he get? He was a fugitive for a while.

G He was a fugitive. They give the judge --

HD How much time did he get?

G He got 15 and he did 5.

HD Served 5 and released. Who else?

G And Tony Gambino. He got two cases and he got 34 -- he's got 34 and 34. The judge put it together.

HD 68?

G Yea and he went home a couple of months ago.

-- He went home summer of '95.

HD How else?

G Me.

HD Mario?

G He was acquitted.

HD There's one other Gambino.

G Arozmo Gambino. 34 years.

HD He got 34. And where is he at?

G He's in New Jersey right now.

HD Has he got a release date?

G He's got to go through the parole board. Maybe not.

HD But he doesn't have a release date at this point. There were some pending charges. Whatever happened to those? District of New Jersey, conspiracy to defraud US Department of Treasury and false statements.

-- He was acquitted on all charges that are in there.

HD This was here. He was acquitted? Who had the heroine? Who owned the heroine?

G Dino Spatola. Spatola and -- he says Saita was the .. of the drug number one. Number two, when I went in trial, there was some paper, the FBI, they said they saw package to give it to Spatola by Mazala. So really I was just surprised at the drug because I wasn't talking about with my cousin Spatola because he was telling me, see if you can find it. But really, I never find any drug. Then they got this guy, they give him half a kilo one time. Another time you give him 400 for a gram.

HD But it didn't belong to you.

G Obviously no. Because what's the difference if I tell you I give it to him and if he's .. a kilo because I admit it, I was in a conspiracy. I admitted that. I wasn't in conspiracy, no. No question about it, I should have stopped. I make a mistake. I paid 12 years.

HD When did you first go to Court. The first time you went to court on anything. When was that?

G The first time? 1980 I had a trial for something they found in Milan.

HD You went to trial in '80 or '81 or when?

G 1980 and '79, yea.

HD You got acquitted of that.

G Yea, I got acquitted but I got sentenced in Italy, not no.

HD Did they try you in both places?

G I stand trial, yes.

HD They tried you in New Jersey but they tried you in absentia in Italy.

G Right. Please, I want to tell you another thing if I can. Sietenno, I got in New York and I got sentenced in Palermo in Sicily. After 3, 4 years, one it .. for the government. For the government, they never controlled. This guy takes a pizza connection. The drug that they find in Milano, there was for me a funeral for my brother. But they says he was ... other people. And he takes a flower, the pizza connection. They find, as a matter of fact, they charge on the pizza connection, this drug that they find in Milano. So is clear my name, there was --

HD When you speak of the pizza connection, I've heard some people

with the pizza connection. The ones I heard were from Chicago.

G There was a certain when I was originally, no. I don't know where they come from.

HD But you got convicted in Italy after you were acquitted in the United States.

G Right.

HD Is that conviction still valid over there?

G Yea, I got 20 years over there.

HD Do they have an extradition treaty between the US and Italy?

G I think so.

HD Has anybody talked to you about maybe extradited or anything?

G Not really, no.

HD I'm just wondering.

G Yes, there is a treaty. Yes.

HD They described you in these crime reports as being for organized crime. Do you want to respond to that?

G Okay. I read the report and I want the truth with my lawyer. I want the truth with myself. Really, the report, what did they say? They mentioned my name a few times like I tried to open a couple of pizza places. I tried to open a restaurant and disco. Really, they don't tie it up to any place. I wasn't 10 years before -- I never have any trouble. They says, they blame on my cousin Gambino family. I got to be honest with you. No. No because I don't want Gambino to be my cousin. He is no my cousin. No. I know Gambino.

HD What Gambino you talking about?

G Carlos. We no relative, no. What I tried to do before this,

I was try to make a living, to open a few places. And I did. I did open a couple of places. They mention a family over there. They never mention my name anyway. They mentioned a Gambino, they mentioned, but whatever.

HD You had ties back to him, right? You and Carlos -- Carlos's family had business connections?

G Not with us, no. We never was in business together and I know Mr. Gambino because see, like in New York, in Brooklyn, they say like Little Italy they call it. There's a lot of Italian --

HD I thought you guys, you leased some property from him.

G From Carlo? No. Never. We had a pizza place in Philadelphia.

HD Rojo wasn't -- or was that Giuseppi?

G This is my brother, Giuseppi.

HD Was he involved in that? In the pizza parlor that acts as the property -- not the pizza parlor, the property that belonged to Carlo?

G No, never. Philadelphia, it was a pizza place, it belonged to Pacona -- she's mozzarella people they hired. Anything you want, you can ask me anything.

HD I'm reading some of this stuff. I'm reading it and then I get to wondering about it. You were in business where?

G I was in business in Philadelphia.

HD And where else?

G Then I had a butcher shop in New York. Brooklyn. 48th Street and 5th Avenue. I had a butcher shop.

HD How about New Jersey?

RCC0081

G New Jersey, at one time I had a pizza place in Cherry Hill. They called it Rudy Pizza. Excuse, me the shop on -- that's the only pizza parlor in New Jersey. That's the only one.

HD Why do you think they keep mentioning your name so much?

G Because really no, when I was in Philadelphia, my brother, somebody come in, they want to put a cigarette machine in there in the pizza place. So we let them put the cigarette machine in the pizza place and then there was a big investigation because these people, they were going to Mr. Bruno, Angelo Bruno. So then after a little while they had a big investigation and me and my brother, as a matter of fact, we had a subpena about this in New Jersey. So we went to testify how we know Bruno, why, how. And at the time we know

Bruno because the cigarette machine and I cleared up myself and I was in organized crime and anything like that. As a matter of fact, after that I never have any problem. You understand that the name of Gambino is like on each book and newspaper. But I'm not that one. I'm different. I'm a different one.

HD That's true, but as you say when they mention Gambino, everybody's ears perk up.

G I'm a Gambino, they think -- even over there they know. I do my time.

HD Besides being in the restaurant business, in the pizza business, beside being in a butcher shop and what was the other thing you were involved in? How about the business in New Jersey?

G Pizza place.

RCC0082

HD It was a pizza place in New Jersey? Were you involved in any other businesses?

G No. At one time I used to work on the construction. I used to be ... I was working, for a little while I was working in the construction business.

-- Can I clarify that? Mr. Gambino, we talked about this yesterday. Not -- you mentioned a butcher shop, but there was a butcher shop that your father established in the United States and then you owned your own butcher shop before you gave that up. Maybe you could explain what that is.

HD You ran your own butcher shop?

G I work for my father for five years. I opened one for myself, yes.

HD That's when you were younger?

G Right.

HD You read all this information they sent to you. What else would you like to see in that information?

G Number one, I wanted to say the information didn't have anything -- they incriminated me because they mentioned a few times my name, pizza place. They said I tried to get a license. Under my partner, I don't put it in my name. You've got to understand. It's my name, is very complicated name sometimes. If you make an application, I put the name -- it take two years before something would be done. So I had my partner. He processed the license.

HD So you applied under somebody else's name? Was he a partner or a friend?

G He was a friend and partner.

HD Was he a partner in the business that you were applying for license for?

G Yes. Right.

HD There was no really attempt --

G My lawyer advised me like that, no. I never had any problem before that time. Never, God rest, I was there every day. Taking care of my business and work on the pizza place. Every day, every day. I used to go there until 2:00, 3:00 in the morning. Because there was moving on -- Mictor Street. There was a lot of movie -- after the movie, people they used to come in there for pizza. I used to be there.

HD Why would the Government describe you guys as being involved in kilo quantities of heroine? Why do you think that the Government describes you guys this way?

G Number one, the name of Gambino is like this. Number two, about the month of the drug that they find in Milano, the witness testified, testified they don't .. it from me. As a matter of fact, Mr. Bouchet -- I don't know if you know Mr. Bouchet, a big witness for the government. And when he testified on the pizza connection, they says I was a ^{not a member} brother to organized crime and I was working guy. I was working in a butcher shop. As a matter of fact, I was subpoenaed Mr. Boucheta to come in this hearing. I got the letter over here. I want to show you.

HD I'll look at it later on. I want you to answer me. Do you think that they're describing you and the people you were involved with as being involved in heroine traffic, it stems back to that trial which you were acquitted from?

G Yes. A hundred percent. That's why I mentioned it to you because this, this government witness and they claim he says the drug was from me. The drug was from Mizada. We have a paper to show it to you for that trial. That's when it started this trouble, for this drug they find in Milano and then they tie to the pizza connection. That's really why they thinking I was somebody connected over there -- I am not. I was a working guy like everybody else. I was trying to make a living the best possible way. I told you, the doctor found the cancer, I wasn't the same.

HD Talking about the pizza connection. Let's go back to that a minute. That interested me when you mentioned that. Now, that trial took place in New York, right? And during the course of that trial, where were you?

G I was in jail. In New York.

HD So you were right there when all that was happening.

G Right. I was there. I was on December 4 on the ...

HD With the pizza connection?

G Yea. I was over there ... this pizza connection because they never can rebel to get out. They get everybody there and they're out all over. That's the point.

HD The pizza connection?

G They got everybody bail.

HD Now, where did you start this? I know you at the MCC in New York. Where did you go from New York?

G I went to Springfield for my throat.

HD And then here?

G And then over here, right.

HD You still working the same job?

G Yes.

HD How you getting along?

G Very good. I did a lot of program over there. A lot of program. The drug program. I did a screen playwrite. I'm tell it go in the kitchen. I got a letter. Every time they got a special dinner, they call me. I go cook for them. Anything at all.

HD No shots except that one time.

G Right.

HD Some shoes or something?

G No, misuse of medication. I misused my medication.

HD I remember something about medication.

-- Do you want me to clarify?

HD What about those shoes?

-- There's no shoes.

HD Refusing program, lying, false statements. I thought I had read about --

-- I only know of one where he failed to take his medication at the pill line.

-- And he took the pills back. He was having surgery.

HD Was it just the pills?

G I used to take since college anyway, so I take medication for most of 12 years. The one time, because I got a polyps in my ... So they told me at the -- don't drink and don't take any tea. So I went to the medication, I take it myself. So they shake down and they find this medication. That's ...

HD That was in '88 or '89.

G 7, 8 years ago. My record is good in the institution. I won a lot of things.

HD All your family's out here now, right?

G In California.

HD How much you pay towards that fine now?

G There was --

HD Was it \$105,000?

G I paid 70 some dollars --

HD \$70,000 so you paid --

G \$25,000, \$26,000 there. I don't know exactly, but close. I give you --

HD No problem. You got a life special parole.

G No, I got a few --

HD 20 years.

G If you parole me, I --

HD We talked about all the family that lives out here, right? What kind of work would you do?

G If I get out? I did like for three years I went to school to creative write. To write things for the TV, but besides that -- I would like to do that if I can do it. But besides, that, my son he had a business. Tommy's got a business. So I could -- cook.

HD Is your cancer in remission?

G I still got it.

HD But it's in remission.

G I control it medicine. Through the medicine, I got this operation.

HD You may need to work for your son.

G I like working with my son. My son he's got a business. Is there anything else, you can ask me.

HD I'm going to get back to you. I'm going to ask your son for any kind of answers he's like to make in your behalf.

T First of all, I want to say that the response -- (Second Side)
I want to say that when the response came back from the Commissioners to 27 years because they gave a reason of the organized crime and upon his release he would commit another crime. The first thing I said to myself is how do they know that he will commit another crime. I don't think that was very fair because I don't think they know what we have gone through here or what my father has gone through here for 12 years every day. I don't think they were here with him every day. Or in that case even with my family, to what we have gone through throughout all these years. For them to know what my father is most likely to do. I thought that wasn't right. I feel we're human just like the way they are. I don't think there's any way that he could serve all those years that in or even if maybe we can put up with coming here all those years. Because it gets harder and harder every day that we're in here. I think that I read most of my father's file. I read his trial. In my opinion, I didn't see where it was an organized crime case. And I feel like we're victims of our name. We didn't choose to have this name. We don't want this name. We don't want this whole organized crime thing. We don't want to go back to New York. We want to continue living here. All we want is just to start over and for someone to give us a chance to begin a new life here. We're

not interested in any organized crime and any going back to New York or to New Jersey. I hope that you believe in my family. You gave us a recommendation. That showed that you believed and had faith in us and I hope that you continue to do that because believe me, we won't let you down. We don't want to come back here. All we want to do is start over. I have a business. My father would be working with me, helping me. And we're just going to start -- we want to be like any other normal family. If I may, my sister had a couple comments and my grandmother too because my grandmother couldn't be present because she's sick. Is it possible?

HD Very brief.

T Basically my grandmother wanted to say that she's sorry she couldn't make it here because she's suffering from arthritis. The last few months it's getting worse. So she couldn't be out here. She's waiting for my father to come home so she could come live with us here in California. The weather is good for her arthritis here. She wanted to thank for any decision that you would make and regrets that she couldn't be here with us today. My sister, she wanted to say that it's been a long journey for us. We all grew up in this prison and all the prisons around the country. We feel it's time now that my father comes home. We're a very close family. Like even just to give you an example of what type of family we are, real brief --

HD I think I know that. I don't want to cut you off --

T I just want you to know our feelings and I just want to make sure our feelings are very clear. How we feel about the

situation. Thank you.

HD Mr. Daniel what would you like to say?

-- My statement, I want to address three areas in particular. First of all, I want to talk about unsubstantiated allegations of organized crime with regard to Mr. Gambino. Then I would like to talk about the offense severity category which was given him regarding his offense. Last I'd like to point out a number of reasons why the Commission should parole and as soon as possible.

HD Before you get to that, I can read. I'm literate. I'm just saying that I've read that one in there. I want you to highlight. I've read this.

-- Guidelines? Okay, I'll stick to the organized crime.

HD You can -- I just don't want you to dwell on these things too much. I want you to give me what you want to say, but I have read what you have to say about the offense severity and all. OC allegation offense severity and what's the third one?

-- Reasons why -- his good record basically. Institutionally. Mr. Gambino has never been or had involvement with organized crime. This was his first conviction here in the United States. He was acquitted of a continuing criminal enterprise, conspiracy count in this offense. The Commission has disclosed, page 15 from the New Jersey Commission report and pages 72, 107, 110 and 224 of the 1980 Pennsylvania report as a basis for finding that Mr. Gambino was involved in organized crime. I'd like to go over these reports one by one. I'll start with the New Jersey report. There are two paragraphs in the New Jersey report. They really provide very little

information that pertains to Rosario Gambino. It provides information that he was indicted for the heroine conspiracy in Milan where they seized the 480 kilograms. Then it goes on to talk about a number of other persons in a disco in Atlantic City which doesn't connect Rosario Gambino to them in any way. The only other piece of information is a report that he received a dead fish in the mail. He never received a dead fish or a live fish. The claim was without any kind of substantiation. Now I'm going to turn to the Pennsylvania Crime Commission report which really has a lot more information. That report states that Mr. Gambino was indicted for conspiracy to import 40 kilograms of heroine which were seized in Milan, Italy. He had no involvement in that crime. He was acquitted on that case and the Government itself must now believe that because it has subsequently to tie those drugs which they charged him with in a number of other cases which had no connection to Mr. Gambino. The Pennsylvania and New Jersey report, they don't provide any information that a subsequently important Government informer in a number of organized crime cases, has pointed out that those 40 kilograms were destined for several individuals who are connected in the famous pizza connection trial in which Mr. Gambino had no connection or was ever involved with.

HD Run that by me again.

-- In subsequent trials, a government informer named Salator Contorno has indicated that the 40 kilograms of heroine had nothing to do with Mr. Gambino, that they were going to sent to several people that were convicted in the pizza connection

trial.

HD So it was a different group altogether.

-- Yes. There are a number of other pieces of information in the Pennsylvania report. The report states that Rosario Gambino is a cousin of Carlo Gambino and this simply is not true. They have the same last name and that's it. The Court also tries to make an unsubstantiated allegation of some tie on Mr. Gambino's part --

HD Is there any family connection between those people -- between he and Carlo Gambino?

-- There is none.

HD I just want it for the record.

-- The report tries to make an unsubstantiated allegation of some tie on Mr. Gambino's part to --

G Excuse me, there was a my grandfather, grandfather relative -- I don't know. Maybe, I don't know.

HD You said the Court?

-- No, the report. The report has made an unsubstantiated allegation. I'm talking about the Pennsylvania report now. Of some kind of tie on Mr. Gambino's part to Angelo Bruno who was an organized crime figure in Philadelphia. And Mr. Gambino has already explained -- his only connection to Mr. Bruno was the fact that Mr. Bruno owned cigarette machines in Mr. Gambino's pizzeria in Philadelphia and also his brother's restaurant in New Jersey. The only other information in the four pages of the Pennsylvania report which has any connection to Rosario Gambino in any way are details about Rosario's intent to get a liquor license for a restaurant that he wished

to open in Philadelphia. He had a partner who tried to get a liquor license in his own name. That doesn't mean he was in any way involved in organized crime. Because of his last name he would have difficulty getting any license. Now, the information in the Pennsylvania crime report doesn't -- can't really show by a preponderance of the evidence that Mr. Gambino was a member of organized crime. In fact, the commission itself has been terminated by the Pennsylvania legislature. According to the Philadelphia Inquirer of 5/23/95, law makers became increasingly angered by the Commission's reports which were filled, some argued with innuendo and questionable evidence. The Harrisberg Patriot, dated June 12, 1995, stated that the Commission had been criticized for years for naming names without having the evidence to back up its charges. In an editorial by the Harrisberg Patriot, on December 19, 1993, which argued that the Commission should be closed down, the report stated that those who could prosecute criminals rarely put enough stock in the Commission's reports to develop cases on their own.

HD What you're telling me is that the press and the legislature criticized them, right?

-- Yes. Also the courts as I'll get to. The Commission published a Stafford report to many people as ... In a recent case in the Commonwealth Court of Pennsylvania which was named Simon vs. Commonwealth, dated May 22, 1995, the court ruled that the Pennsylvania Commission's procedures for publishing reports in which many people were named as affiliated with organized crime were in fact unconstitutional. At this point

the commission's reports were turned over to this state police and the Commission is defunct and those reports are no longer disseminated to anyone. Mr. Gambino is also submitting two letters which, one is from a Dr. Ronald Bregman who was Councilman in the town in Delrand where Mr. Gambino used to live in New Jersey. The letter states that he had no knowledge of any organized crime tie in his official capacity regarding Mr. Gambino. I have another letter from New York attorney Edward Panzer who states that Tomaso Ucheta who was one of their biggest mafia informants for the government over the last several years and was a witness in th pizza connection trial, has stated in court that Rosario Gambino was not a member of organized crime. The parole guidelines, with regard to that, I believe his offense severity should be a 6 and at most a 7. All of his co-defendants received a 7 or a 6. There was never any evidence of any other drugs that Mr. Gambino was involved with that the other co-defendants were not which would allow a larger --

HD You say that based on a pre-sentence report, but based on what the Commission has --

-- There was a finite amount of drugs and there was no evidence of drugs that Mr. Gambino was involved with that the other co-defendants were not involved with. I think as you know from the past hearing and as I have submissions, he's had an excellent record while he's been in prison. He's got excellent reports from all the people he's worked for. He's accomplished a number of different programs. He's suffering poor health. He's taking medication for depression which he's

been doing throughout his term here. He has throat cancer for which he's received numerous operations. He's been here 140 months, approximately. For less than one kilogram of heroine. That's a serious offence, but I think the time he served as the guidelines would indicate, is more than enough.

HD Before we close this thing, I want you to comment and I want him to comment. The very damaging conviction by -- I read it, in fact I re-read it. He said he was represented by counsel.

-- That's incorrect. It states that, yes in the PSI. But it's incorrect.

HD But you say that's not correct. That he was --

-- This trial in Sicily. I don't know that much about it. I know there's like numerous people were convicted that were in the United States in different parts of Italy that weren't there. It was like a mass trial.

HD The reason I say that, when I read it I found that found in absentia. It says also verifies he was represented by counsel while in absentia. That's why I asked that.

-- It's in the PSI but that's not -- that's incorrect.

HD Do you want to add anything?

G Please. A couple of more minutes.

HD I don't want you to go back over stuff we've already covered. You tell me something new.

G Number one, they plan - Carlo Gambino - I wanted to say, like the son of Carlo Gambino, Tommy Gambino. Tommy Gambino, Carlo Gambino's got a son, Tommy Gambino. He got tried for organized crime for a number of things. They find him guilty and they give him just five years. He's the son. This is the

captain. We've got this paper over here. And they want me to do 27 years for me and my trial, it was ^{not} organized crime. It didn't involve anything. It was less than one kilo. You should have read it yourself.

HD Is this a US conviction?

G Yes.

HD I guess that's a New York Italian paper.

G Right. I get it every day. Number two, my father, when we were in Sicily, we used to live a good, pretty good, because my father was a businessman. He had a butcher shop. We used to work with my father. But my father he told us all the time, we got to leave in Sicily because there's a lot of violence. My father, one has to be raised in Sicily, in Palermo. That's why we come in this country. But my father, he missed the point already, the name Gambino was tied up in organized crime. When we came in already, the name was -- and when we came in over here, we sell the butcher shop, we used to work hard with my father to live, to make a good living and we never was involved, me or my father, anybody in organized crime. That's the most point and this Bouchet, he knows me. He testified at so many trials and -- because he knows my father from Sicily, he knows me from New York. He testified I wasn't in organized crime. Now, the government, I understand that they don't want me over there because -- that's my feeling. Even if I got to leave the country, but against my wishes. Because I want to stay over here. I want to have a life with my family over here. I want you to get concentration. If you let me get out of here, I got 58

special parole. First mistake I make, I come back in jail. If I come back in jail, I'm not the same. So I want you to give me a chance, the opportunity to come back to my wife and my kids. Like you did last time.

HD Step out. I'll call you back in.

-- Let me just add one thing. I think the hardest thing in the room to prove is a negative. It really is. I don't know how to do it. We got the reports last week. We went through the disclosures last week. I was struck by the fact that most of the Pennsylvania report, for example, seemed to just talk about Mr. Gambino's establishing businesses such as a pizza parlor and working in pizza parlors without details of the activities that I tend to think of as organized crime. And I don't know how one rebuts allegations in a report that don't come from a source that's easy to identify. I don't know how one rebuts that. The hardest thing to prove is a negative. Mr. Gambino's explained he's not related to organized crime, not related to Carlo Gambino, unfortunately has the same last name. And I think that's the biggest thing against him now is the last name.

HD First of all, we went through the factor score. I did read it. It was a category 8, same reasons that the Commission previously rated it as an 8. 100+ months. The misconduct report doesn't change it. Now, your case was previously designated original jurisdiction. So I'm sending it back original jurisdiction because it was previously held that way. Second thing is, I have to go back and look at what the Commission reordered for rehearing, whether or not what should

be done in your particular case regarding whether or not there was sufficient reason to continue 48 months above, the guidelines because you were organized crime or not. I cannot determine that today. I'm not saying you are or you're not. I just don't know. So I can't use that against you. But I'll tell you what, you were doing some things that make somebody have some damn strong suspicions. You know, I think you'll call it taking advantage of the name, but yet when the heat gets on you don't want the heat, you know? I'm just telling you. I'm going to give you the same decision that the Commission previously gave you and I am going to exceed the guidelines, but I'm exceeding them for a different reason. I think that you are a more serious risk than indicated by the factor score because of that conviction in Italy. Now, the Commission may not agree with me with that. I don't know what they're going to do. I'm gonna set the date back to when it was, March, 2010. I'm not gonna go December 2010 because I think they gave you a denoble hearing. I think the Commission not only does not go back and give somebody a longer continuance, so I am just gonna keep that same routines that they gave you before. I am gonna ask that they carefully review the files of the code factors to see what they did with your codefendants. I do not have their files or the information regarding every one of them. I'm gonna ask you to take with you those files. See you again in two years. I don't have quarrels with the institutional adjustment. That's gonna be my recommendation.

G You're not gonna mention this like, for less than one kilo I

got to do 27 years? You know I just...

HD Well, let me put it this way. You're gonna do 27 years or more. That 27 years means that when you get to 2010, they'll determine when if they're gonna parole you.

G Yeah, that's what I mean. That's what I'm talking about. For less than one kilo, how do you normally do it?

HD Look. It is my recommendation. The hearing's over with. If you got any problems with my recommendation, wait until you hear back. It could come back different. I don't know what's gonna come back, then put your appeal in. I've carefully considered what you have had to say today, and I'm not gonna argue with you.

G No, no I'm not.

R Okay. Can I just ask the client, so our jurors will understand, and your finding is that you're not making a finding with respect to allegations of organized crime one way or the other, however, the decision is to reinstate the Commission's original date because of your view of a more serious poll risk based upon the Italian conviction?

HD Right, that's the bottom line.

G You know, I wasn't thinking of let's think I want to tell it, even if I can't say, even if I got to live in Country, I live at Country, I mean you know.

HD I'm not, you know, whether you do, you know, what happens between you and whether you're deported or whatever happens, I have nothing to do with that and I'm not going to get into it. Thank you very much.